<u>REMARKS/ARGUMENT</u>

This Amendment is being filed in response to the Office Action dated July 21, 2005. Reconsideration and allowance of the application in view of the remarks to follow are respectfully requested.

Claims 11-16 are pending in this application. Claims 11, 15, and 16 are independent claims.

In the Office Action, Claims 11-16 are indicated as provisionally rejected (see, Office Action, page 4, last paragraph) under the judicially created doctrine of double patenting as being unpatentable over Claims 1-5 of U.S. Patent No. 6,721,329. It is believed that the indication of this rejection as provisional is more than likely a clerical error since the subject prior patent issued more than one year prior to the issuance of the Office Action. This rejection will be treated herein as if it were not a provisional rejection.

The Office Action takes the position that Claims 11, 12, and 15 are similar to Claims 1 and 5 of U.S. Patent No. 6,721,329 and further states that "[t]he current application does not contain the last limitation within the independent claims [of U.S. Patent No. 6,721,329], however, it is listed as dependent claim 12. Thus it would have been obvious ..." (See, Office Action, page 3, last

paragraph.) The Office Action further states that "Claims 13 and 14 of the present application are identical to claims 2 and 3 of U.S. Patent No. 6,721,329. (See, Office Action, page 4, fourth full paragraph.) While the Applicant appreciates the indication that Claims 11, 15, and 16 are allowed, and thereby also Claims 12-14 at least due to dependence on allowed Claim 11 as well as for the separately patentable elements contained in each of the claims, the above characterization is respectfully refuted. It is the Applicant's position that the scope of the claims is determined by the claim language and not by the potentially narrowing comments made in the Office Action with regard to the double patenting rejection. However, in the interest of expediting issuance of the currently pending claims, a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) is enclosed herewith. Accordingly, the Applicant respectfully requests that the double patenting rejection be withdrawn.
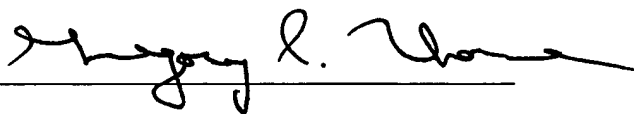
In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any points of argument not addressed would appear to be moot in view of the presented remarks and the attached terminal disclaimer. However, the Applicant reserves the right to submit further arguments in support of the

above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

It is believed that no additional fees or charges are currently due beyond the fee for filing the terminal disclaimer which is to be charged to the credit card as noted by the enclosed authorization. However, in the event that any additional fees or charges are required for entrance of the accompanying amendment, they may be charged to Applicant's representatives Deposit Account No. 50-3649. In addition, please credit any overpayments related to any fees paid in connection with the accompanying amendment to Deposit Account No. 50-3649.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By _Gregory L. Thorne_

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
October 19, 2005

Enclosure: Terminal Disclaimer
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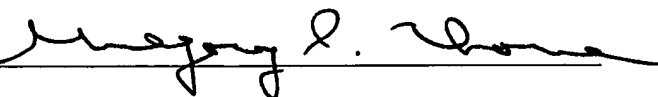   terminal disclaimer

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